

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

GENENTECH, INC.,

Plaintiff,

v.

THE TRUSTEES OF COLUMBIA  
UNIVERSITY IN THE CITY OF NEW  
YORK,

Defendant.

CIVIL ACTION No. 04-11546 MLW

(Part of MDL No. 04-1592 MLW)

**SUBMISSION OF PROPOSED ORDER DISMISSING CLAIMS**  
**PURSUANT TO THE NOVEMBER 5, 2004 ORDER**

Pursuant to paragraph 1 of the Court's May 17, 2005 Order, the parties submit the attached proposed order dismissing those claims that the parties agree should be dismissed pursuant to the November 5, 2004 Order.

Respectfully submitted,

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Dated: June 10, 2005

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**[PROPOSED] ORDER OF DISMISSAL**

Pursuant to this Court's Memorandum and Order dated November 5, 2004, allowing the Emergency Motion to Dismiss for Lack of Subject Matter Jurisdiction filed by The Trustees of Columbia University in the City of New York on September 2, 2004 (Docket No. 86), it is hereby ORDERED as follows:

The following claims are hereby dismissed for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1):

- First Claim For Relief: Declaratory Judgment That The '275 Patent Is Invalid Because Of Double Patenting;
- Second Claim For Relief: Declaratory Judgment That The '275 Patent Is Invalid And Unenforceable Because Of Prosecution Laches;
- Third Claim For Relief: Declaratory Judgment That The '275 Patent Is Unenforceable Because Of Inequitable Conduct; and
- Fourth Claim For Relief: Declaratory Judgment That Genentech Owes No Royalties Under The '275 Patent.

Dated:

August 9, 2005

*Mark L. Wolf*  
HON. MARK L. WOLF  
UNITED STATES DISTRICT JUDGE